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**NOMINATIONS OF SUSAN MEREDITH PHILLIPS,
VANCE L. CLARK, AND LARRY L. DeVUYST**

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HEARING

ORIGINAL

BEFORE THE

**COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY
UNITED STATES SENATE**

NINETY-NINTH CONGRESS

FIRST SESSION

ON

THE NOMINATIONS OF SUSAN MEREDITH PHILLIPS, OF IOWA, TO BE A COMMISSIONER AND CHAIRMAN OF THE COMMODITY FUTURES TRADING COMMISSION; VANCE L. CLARK, OF CALIFORNIA, TO BE ADMINISTRATOR OF THE FARMERS HOME ADMINISTRATION; AND LARRY L. DeVUYST, OF MICHIGAN, TO BE A MEMBER OF THE FEDERAL FARM CREDIT BOARD, FARM CREDIT ADMINISTRATION

SEPTEMBER 9, 1985

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NOMINATIONS OF SUSAN MEREDITH PHILLIPS, VANCE L. CLARK, AND LARRY L. DeVUYST

MONDAY, SEPTEMBER 9, 1985

U.S. SENATE,
COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,
Washington, DC.

The committee met, pursuant to notice, at 10:15 a.m., in room 328-A, Russell Senate Office Building, Hon. Jesse Helms (chairman of the committee) presiding.

Present: Senators Helms, Wilson, and Harkin.

STATEMENT OF HON. JESSE HELMS, A U.S. SENATOR FROM NORTH CAROLINA

The CHAIRMAN. The committee will come to order. This morning the committee meets to consider the nominations of Susan Phillips, to be reappointed as Chairman of the Commodity Futures Trading Commission; Vance L. Clark, to serve as Administrator of the Farmers Home Administration, and Larry L. DeVuyt, to be a member of the Farm Credit Administration. These appointments are illustrative of the wide diversity of agricultural interests in this country and jurisdiction of this committee. We are indeed fortunate to have such well-qualified nominees for these positions.

Susan Phillips is no stranger to the members of this committee having served as a member of the Commodity Futures Trading Commission since its last reauthorization and having been in charge of the implementation of many of the legislative changes that were made at that time. We welcome you and Congressman Tauke this morning and look forward to hearing from you. Mr. Clark comes to the Farmers Home Administration after having spent 42 years with the Bank of America prior to his retirement from the bank in 1983, he served as a regional senior vice president and had overall responsibility for the operations of the bank's 104 branches in the valley.

As this committee is aware, the job to which Vance Clark has been nominated is one that is currently kind of a hot seat and one that will require a great deal of work and patience. I am particularly appreciative that Mr. Clark has agreed to take this assignment since he is so obviously well-qualified and he did not have to do it at this stage of his career. We welcome you.

Mr. DeVuyt is a very experienced farmer, businessman, well acquainted with the workings of the Production Credit and Federal Land Bank Associations. And, my lord, we do have problems there

that are coming up. He brings a farm operator's perspective to the Federal Farm Credit Board at a time of unprecedented change.

We will do a little housekeeping here. After the introductions have been made and in the proper order, without objection we will put a letter in the record from Fowler C. West, Commissioner of the Commodity Futures Trading Commission in favor of Susan Phillips.¹

I do not know how long you folks want to be here this morning, but the Chair is open to opening statements by each of you in the order listed, after you have been presented.

Susan Phillips will be presented by the distinguished Representative from Iowa, Mr. Tauke. Then a member of this committee, Pete Wilson and Congressman Pashayan, will present Mr. Clark.

After the presentations have been made, we will entertain opening statements by each of you. You may proceed, sir.

STATEMENT OF HON. THOMAS J. TAUKE, A REPRESENTATIVE IN CONGRESS FROM THE SECOND DISTRICT OF IOWA

Mr. TAUKE. Mr. Chairman, thank you very much. It is a great honor for me on behalf of the Iowa delegation to introduce and present to the committee, Susan Phillips.

Susan Phillips was born in Virginia but of course that was before she had any choice about these matters. When she did have an opportunity to make choices, she moved to Iowa. And that is an indication of her very good judgment.

In any event, as you indicated, Mr. Chairman, she is not a stranger to this committee or to Congress because she has been serving as Chairman of the CFTC, and I think in the minds of virtually all people, has done an outstanding job. She has been in charge of implementing the reauthorization of the CFTC with the past Congress. In her capacity, first as a Commissioner and now as Chairman, she has been distinguished in her work with both private industry and with Members of Congress. I am sure you have found, as I have, that she is very responsive to individual requests from Members of Congress and also to inquiries about policy decisions. Certainly she serves in an area that can be very volatile, but because of the great integrity that she has brought to her work, she has conducted the business of the CFTC with remarkable calmness and stability. And so, Mr. Chairman, we in the Iowa delegation are pleased to present to your committee, Susan Phillips with our strong recommendation for confirmation.

The CHAIRMAN. Thank you, sir. Your remarks about her good judgment by not staying in Virginia remind me of something that really happened. There is a great rivalry between Raleigh, NC, and Durham, NC, which are 20 miles apart.

On one occasion, the mayor of Durham had a meeting where there was a little girl whose family was moving to Raleigh from Durham. She got on her knees and said, goodbye, God, we are moving to Raleigh tomorrow.

The mayor of Raleigh said what she really said was good, by God, we're moving to Raleigh tomorrow.

¹ See p. 30 for the letter from Commissioner West.

All right, now.

STATEMENT OF HON. PETE WILSON, A U.S. SENATOR FROM CALIFORNIA

Senator WILSON. Mr. Chairman, I think you have perhaps made the point. I was going to say to the good Congressman about the delegation from Virginia, he should be glad that none of them are members of this committee. But all of us on this committee are together in spirit.

Mr. Chairman, it is my pleasure this morning to make an introduction that seems unnecessary in light of your own remarks about the extraordinary job that the administration has done in fitting the capabilities of an extraordinary man to the demands of a particularly demanding job. Nonetheless, without reciting all that you have said, let me add to it for just a moment before I turn to my colleague, Chip Pashayan, who has the honor to represent the district in which Mr. Clark has been a resident, and as you will now hear more than simply a resident by far.

You have mentioned the fact that the responsibilities as regional senior vice president of the Bank of America have placed him in charge of 104 offices. That translates into 3,200 employees. And you, having traveled to that great farming area, do not need any explanation as to the extraordinary capacity that it has if it is adequately serviced by credit. It has been the responsibility and I think, the great pleasure of Vance Clark for many years to perhaps be more responsible than any other single citizen operating in the San Joaquin Valley.

His educational background is equally impressive. It includes studies at UCLA graduate school in business development, Brookings Institution government operations conference. He has also taken with great distinction courses in farm management, financing, and crop production at the University of California at Davis and California Polytechnic Institute.

As a result of not only his academic but practical experience in farming, he is the recipient of an honorary juris doctorate degree from San Joaquin Valley School of Law in 1981 which is an honor quite appropriate to the distinction he has given to agricultural credit.

The remarkable thing about him is that Vance is not one dimensional. All that he has done professionally has been hardly an adjunct, but it sometimes seems that he has given as much time to those community activities as he has to his own profession. He has held a spectacular number of leadership positions in a variety of fields.

He has served on the California Student Aid Commission, the board of the Bank of America Livestock Symposium, which is an educational outreach forum, on the Business Advisory Council to Public Television, and has been president of both the Fresno City and Fresno County Chambers of Commerce.

I will not take the committee's time to list completely his accomplishments. I think this gives you a fair impression of why it is that I asked the President some time back to consider Vance Clark for this position.

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There is only one thing in all of this recital which I think you will agree makes him a little suspect, and that is his willingness to take this job. But then as one masochist to another, I think that is something we can overlook.

Everybody in this room today is aware of the, to put it mildly, difficult and challenging economic situation confronting many of our farmers, and therefore the challenge that will be confronting Vance in this job. Those of us who have visited with farmers over the past recess and before throughout this year know firsthand the problems that they are facing. Financial credit problems rank very high on that list. Now more than ever we must have the kind of strong leadership that he can give in the Farmers Home Administration.

Throughout the half century of its operation, the Administration has been concerned primarily with credit and counseling services, supplemented the resources of the private sector to build stronger family farms. In 1984 farm credit accounted for about half of all the resources administered by the Farmers Home Administration. The agency through its farmer rural housing community and business programs administered close to 176,000 loans and grants worth nearly \$8 billion in 1984. In the credit delivery system that FmHA has developed over the years, resources are directed through Washington to 46 State offices, 270 district offices, about 1,945 county offices, serving every rural county in all of the 50 States and our territories. The Administration's close, 1-on-1 relationship with its borrowers is perhaps unique in the Federal Government's operation. For that reason, I think that the extraordinary background that Vance has held, the breadth of his responsibilities, and the direct relevance of what he has done make him not just an obvious but an outstanding candidate for this job. I intend to not only lobby those not present today. I do not think I will have to work very hard for his confirmation, but it is my pleasure now or will be at the appropriate time to move that the full committee recommend confirmation to the Senate.

The CHAIRMAN. Thank you, Senator.

Chip.

**STATEMENT OF HON. CHARLES PASHAYAN, A REPRESENTATIVE
IN CONGRESS FROM THE 17TH DISTRICT OF CALIFORNIA**

Mr. PASHAYAN. Thank you, Mr. Chairman. It's a pleasure to be here.

I just got back from a unique kind of vacation called a honeymoon, so this is the first official thing I should be doing. It is really a great pleasure.

Mr. Chairman, you have visited the San Joaquin Valley. You have seen the complexity of the kind of agriculture that California has. In my district alone, there is well over 200 different crops and varieties that are produced.

The San Joaquin Valley, but for the delivery of water and the hard work of thousands of farming families, would be a desert. The foundation of the entire economy of the San Joaquin Valley is agriculture. A lot of banks have made major financial commitments to establish the system and keep it going, Bank of America, of course,

being one, and Vance Clark having a great appreciation in the years he spent with the Bank of America for the economic situation of the farmer on the one hand, his own personal dealings, and on the other hand the intricacies and difficulties of financing a farm system, especially today, which is finding a lot of farmers in considerable amount of difficulties.

Senator, the Senator from our State has gone through all the details. So, please do not let the brevity of my remarks at all reflect on anything other than that this man is eminently qualified for the job. I am lucky he came from my district, he will serve the administration very, very well. I hope very much that his confirmation goes through with great speed and haste.

The CHAIRMAN. As a wedding present, we will try to expedite it for you.

Mr. PASHAYAN. This afternoon would not be too soon.

The CHAIRMAN. Congratulations.

My wife says I am getting more anecdotal as I grow older, but let me say that some of the most impressive visits I have made to agricultural areas have been in the valley, which is not only just an astounding thing to view from a low flying airplane, but it occurs to me—this may surprise you, Pete—but over on the east coast not many people realize the enormous agricultural economy that you have in California. You have excellent people. Frank Light is a good friend. They work hard. You are blessed with good people in agriculture out there, just about like North Carolina.

All right, we will have statements—

Senator WILSON. The valley is—

The CHAIRMAN. Most of them originate in North Carolina if you look back.

Mr. PASHAYAN. Mr. Chairman, not to interrupt you, but I support North Carolina by smoking at least a dozen cigars a week.

The CHAIRMAN. I appreciate it. We do not grow very much cigar tobacco, but at least the thought is there. In this day of diversity we appreciate any help we can get.

Madame Chairman, we will hear from you. If you have a prepared statement, it will be included in the record, and you may excerpt from it or deliver it in full.¹ It is entirely up to you. We welcome you. I understand you gentleman have other fish to fry. Thank you for coming.

Mr. TAUKE. Thank you, Mr. Chairman.

Mr. PASHAYAN. Thank you.

The CHAIRMAN. Ms. Phillips.

STATEMENT OF HON. SUSAN M. PHILLIPS, CHAIRMAN AND MEMBER OF THE COMMODITY FUTURES TRADING COMMISSION

Ms. PHILLIPS. Mr. Chairman, Senators, I am honored to be here this morning as the President's nominee to serve a second term as Commissioner and Chairman of the Commodity Futures Trading Commission.

My past few years at the CFTC have been exciting for me personally, and successful I believe, for the development of the Com-

¹ See p. 21 for the prepared statement of Ms. Phillips.

mission as well as the industry and markets regulated by the Commission.

But there is a great deal remaining before us. Reauthorization is next year. If confirmed, I look forward to a lot of hard but challenging work as we assist the committee with any appropriate changes to the Commodity Exchange Act. The Commission now has a full complement of Commissioners who, I believe, are dedicated and committed and a staff equal to any task that is before it.

Mr. Chairman, as your staff has requested, I have prepared a detailed submission to the committee reporting on the status of a number of the Commission's programs. And with your permission, I would like to highlight just several of the items from that full submission.

First of all, with respect to the Volume Investors situation, as many of you may know, Volume, which is a clearing member of the Comex, failed to meet a margin call this past March as a result of three of its customers not meeting their margin calls. And they, incidentally, were also members of the Comex. At the Commission's request Volume is now under control of a receiver appointed by the U.S. District Court.

About 2 weeks ago also the Commission's Division of Enforcement filed an administrative complaint alleging several violations of the act by the defaulting traders, Volume, principles of Volume, the Comex, and Comex Clearing Association.

As you might guess, the Volume default raised certain policy questions for the Commission concerning exchange-traded options. After careful study and communication with all of the futures exchanges, the Commission staff made several recommendations. As a result of those recommendations, in July the Commission voted to propose changes to the options pilot program in the areas of capital, margin, and account transfer or liquidation. Those proposals are now out for comment.

In addition, the Commission asked the National Futures Association to examine the feasibility of commodity insurance protection. And I might add that the NFA board of directors recently voted to take on that study and will be reporting its preliminary findings to us early next year.

Separately, the Commission will be reviewing the nonagriculture options pilot program this fall. It's now been running almost 3 years.

Another area that I know that this committee is very interested in is the regulation of leverage contracts or off-exchange transactions. Since 1982 the Commission has been moving forward with the regulation of leverage firms and all pieces of the leverage regulations are now in place.

Currently three firms have applied for registration as leverage transaction merchants, or LTM's. However, at this time only one firm, International Precious Metal Corp., and its leverage commodities have been registered by the Commission. Two other firms, Monex International and First Asset Corp., formerly the American Coin Exchange, continue to operate in reliance upon the grandfather provisions of the leverage moratoria established in 1978 and 1979.

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Since the Commission has indicated it is moving forward to consider the registration of Monex and First Asset as LTM's in the near future, certain questions have been raised here on Capitol Hill and by several exchanges. The questions raised by Senator Lugar and Congressman Glickman, a member of the House Agriculture Committee, center upon the possible transfer of an LTM registration or its license to do business, if you will, to another company.

The Commission recognizes the concern expressed by Senator Lugar and Mr. Glickman that such a transfer might affect the moratoria on new firms entering the leverage business. However, due to the infinite number of ways a transfer of business or its assets can occur, the Commission will not decide the issue until a proposed transfer actually comes before us. We would, however, seek comment from interested members of the public on any transfer proposal if moratoria issues appear to be raised by the proposal.

The Commission will also hold a public hearing to allow all interested persons and exchanges to provide their views on the two remaining pending applications for LTM registration. That hearing is now set for September 18, later this month.

Finally, Mr. Chairman, if I may, I wish to make a few additional comments about the Commission's proposal for enhanced audit trails. That proposal has received extensive comment since it was published last December in the Federal Register. Because the comments have been so extensive and several exchanges actually submitted alternate proposals, the Commission's staff has spent time observing actual trading in the pits and reviewing the trade timing and audit trail systems now in use at the exchanges. I might add that many agricultural groups submitted comments favoring enhanced exchange audit trails.

The Commission certainly is aware that each of the regulated exchanges is unique with different volumes, trading participants, types of contracts, customer bases, and automated and manual surveillance capabilities. All of these factors are being considered.

I assure the committee that while the Commission is committed to moving forward with some form of this amendment, we will make every effort to make certain that the final rule will be shaped to assure not only integrity but also continued liquidity in U.S. futures markets.

Mr. Chairman, that concludes my comments. I will be glad to address any questions you or members of the committee may have.

The CHAIRMAN. Thank you very much, a very fine statement.

Now, Mr. Clark, we will be glad to hear from you.

**STATEMENT OF VANCE L. CLARK, ADMINISTRATOR-DESIGNATE,
FARMERS HOME ADMINISTRATION, U.S. DEPARTMENT OF AGRICULTURE**

Mr. CLARK. Thank you, Mr. Chairman.

The CHAIRMAN. How many commodities are grown in the valley?

Mr. CLARK. Over 200.

The CHAIRMAN. I wonder if one of the quiz shows ever asked that question. I do not think people would believe it. It is a remarkable thing.

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Mr. CLARK. I have to learn all about tobacco.

The CHAIRMAN. Do not get into that. We have got enough problems.

Mr. CLARK. Well, Mr. Chairman, I would make my comments to all members of the committee.¹ I am certainly honored to be nominated by the President for this very critical position at Farmers Home. I have been on the job exactly 1 month today. That is probably of benefit to both of us.

I appreciate the opportunity to appear here today before the committee. I want to assure each member of the committee that I will be most cooperative in our endeavors, in our joint interests not only today but from this day forward.

I am again pleased to have this opportunity here today. I will be happy to answer any questions that you might have and to answer them as openly and freely as possible. I thank you.

The CHAIRMAN. Thank you, sir.

I have been noticing your finger, Mr. DeVuyt. Is it broken?

Mr. DEVUYST. Yes; Mr. Chairman, it is.

The CHAIRMAN. I am not going to ask you how.

Mr. DEVUYST. I will really appreciate that. That is the nicest thing you can do for me today.

The CHAIRMAN. I am glad to hear from you, sir.

STATEMENT OF LARRY L. DEVUYST, MEMBER-DESIGNATE, FEDERAL FARM CREDIT BOARD, FARM CREDIT ADMINISTRATION

Mr. DEVUYST. Thank you, Mr. Chairman. It is a pleasure and an honor for me to appear before you this morning. It is a real honor to be designated by the President for the position. I would like to make a very short statement about my own operation and my experience.²

I wish to assure the committee that the fact that neither of my Senators or Congressmen could be here this morning has nothing to do with the gravity of the problems in the Farm Credit System at this time. They all told me they had previous commitments and are nowhere to be found this morning. So, I determined to wing it with the committee, so to speak.

I am a full-time farmer residing in central Michigan. I have an 800-acre cash crop farm, raising corn, soybeans, and navy beans, and also I have a fairly large hog operation producing 4,000 plus head annually.

I have a wife of 27 years and three sons and one daughter. One son now is on military duty in Europe, one has been married a few years, has provided me with two grandsons, and a third son is a junior at Michigan State University. Our baby girl, 15 years old, is a sophomore in high school.

I have served as a director of the Farm Credit Banks of St. Paul. I have been a member of the board of directors of the Michigan Association of Farmer Cooperatives, Michigan Farm Bureau, and Michigan Farm Bureau Executive Committee. I was a member of the Governor's Task Force on Agriculture and served as chairman

¹ See p. 30 for the biographical information of Mr. Clark.

² See p. 31 for background information concerning Mr. DeVuyt.

of the Livestock Committee of the Governor's Conference on Agriculture.

I served 2 years as a member of the Farm Credit Council Board. And I am currently a member of what we call our Gratiot County Agricultural Council.

When I was on the Farm Credit Council, I served as chairman of the Task Force on Campaign Finance. I am currently a member of the Michigan Farmers for Good Government Committee, and served as president of that committee for several years. I am presently serving as vice president of the Michigan Pork Producers.

In the past I was a director of the St. Johns Federal Land Bank Association and many other local associations. My wife and family and I are active members of our Methodist Church in Ithaca and I have served as a trustee of the church.

Mr. Chairman, with those remarks I would be happy to receive any questions that you or your colleagues might have for me. Thank you.

The CHAIRMAN. Mr. DeVuyst, let me tell you something. It is good to have people like you. And I know that Ms. Phillips and Mr. Clark appreciate their representatives speaking for them. But in the case of each of you, the best introduction that you can have is the constructive career that each of you has had. You are all fine Americans. And I think the President has done an unusually good job.

A couple of questions which are far more than formality. This question goes to each of you. You will answer in the affirmative I am sure.

If your nomination is approved by the committee and the Senate, do you promise to respond to requests to appear and testify before this committee and/or any other duly constituted committee of the U.S. Senate?

Ms. PHILLIPS. Yes, I will.

Mr. CLARK. Yes, I will.

Mr. DEVUYST. Yes, I will.

The CHAIRMAN. Let the record show that all three answered in the affirmative.

If you are confirmed by the Senate, will you faithfully execute the laws passed by Congress regardless of any prior statements you may have made or biases you may have had?

Ms. PHILLIPS. Yes, I will.

Mr. CLARK. I will.

Mr. DEVUYST. I will.

The CHAIRMAN. Let the record show that all three answered in the affirmative.

Ms. Phillips, in the 1982 CFTC reauthorization, Congress required the Commission approve or disapprove contract applications within 1 year and contract market rules within 6 months. Beyond your opening statement have these restrictions had any adverse impact on the Commission?

Ms. PHILLIPS. No, sir. I will say that it took us a while to get used to operating under those restrictions. But I think that we have put into place some procedures that have made those time requirements most workable. Although it has taken us a while to get used to them. I think it has also taken the exchanges a while to get used

to them because they too have to operate under certain restrictions. But I think we now have procedures in place that make those workable and in fact productive.

The CHAIRMAN. There is nothing the Congress needs to do then to remedy any situation you may have?

Ms. PHILLIPS. At this time I do not believe that we are going to make any recommendations in that area.

The CHAIRMAN. Let us go back to the agricultural options program. How does this program work?

Ms. PHILLIPS. Mr. Chairman, I know you were in particular interested and in fact led the development of that program. We have been very pleased with the agriculture options program. There are currently a number of options trading under it, some of them quite actively as a matter of fact. The soybean option I believe has the highest trading volume.

They have been trading now a little less than a year. And we have really experienced no serious problems with them, and are pleased to see the reception that they received from the farm community also.

The CHAIRMAN. Do you have any estimate as to the degree to which farmers or rural business people are using these contracts?

Ms. PHILLIPS. Well, as I have said, since they have only been trading about a year, we have not made a formal survey. However, our staff made an informal survey of the soybean option since it was most active and surveyed the public accounts to find out who literally was using the product.

We went into some of the major futures commission merchants, looked at their account statements, and on a random basis tried to estimate the usage, particularly by farmers. We found that over two-thirds of the accounts—and these are public accounts—over two-thirds of the accounts are either used by farmers or in the agriculture business area. That is what they listed on their account statements.

So, yes, sir, we are seeing farm usage of options.

The CHAIRMAN. I want to ask you about the jurisdictional agreement of 1982 of the reauthorization bill between the CFTC and SEC. Is it working?

Ms. PHILLIPS. Yes, sir, I believe it is.

The CHAIRMAN. Any problems?

Ms. PHILLIPS. No. We have had a number of areas—and this of course is to be expected—there have been a number of areas that have come up since the accord was passed that were not specifically contemplated in the legislation. But we have been able to work out these minor differences with the SEC.

I see the accord as a process. One of the important things that, I think the message that, we got from Congress was that we were to work with the SEC and try and work out some of these jurisdictional problems as they occurred. So I think we at the Commission are very pleased with the accord, and it has given us the flexibility to be able to deal with these problems as they arise.

The CHAIRMAN. Very well.

We welcome Senator Harkin this morning.

Senator HARKIN. Thank you, Mr. Chairman.

The CHAIRMAN. I saw you on television. You looked good.

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Senator HARKIN. I did not see it myself. I was out.

You are talking about McLaughlin. He is good.

The CHAIRMAN. He is tenacious. You dodged a few of them adroitly I thought. You have questions?

Senator HARKIN. Not for Ms. Phillips.

Good to see you again.

Ms. PHILLIPS. Nice to see you, sir.

The CHAIRMAN. All right. Mr. Clark, will the credit special debt set-aside program be set beyond September 30?

Mr. CLARK. Yes. That is one of the options that we are looking at. I will say, yes, we will. I think we have to be rather selective on that and make it work. But we are extending for those whose cases have not been disposed of. And there are some regulatory procedures that need to be put into force, and we are doing that.

The CHAIRMAN. Do you think it has been successful thus far?

Mr. CLARK. I think it has been a great assistance to a number of farmers. And again, perhaps we have gone too far in some segments with that set-aside program. But I think in most cases, yes, it has been effective.

The CHAIRMAN. Let us talk about the approved lender program. What advantage can an approved lender expect from your Agency?

Mr. CLARK. Well, I think it triggers teamwork more than anything. We are working hand in hand with the commercial bankers. The approved lender status does recognize a lender as being unique and willing to work with the American farmers. There is some interagency and bank training going on.

I think too we can utilize their banking forms. A great deal of input has come from the commercial bankers on the program, and it works to the benefit of us all.

The CHAIRMAN. I spent some time last week with various people involved in the credit situation, including Mr. Duncan. There is no question about it, as soon as we can get this farm bill reported out—I assume then the information can be obtained, is now being collected—this committee is going to hold hearings on that question. I am unable to act on anything unless I know what the real problem is because you cannot always believe some of the reports. But we do know, there is no question about it, there is a lot of stress and a lot of problems out there.

The demand for regular Farmers Home loans this fiscal year has been rather unprecedented, and with little or no improvement apparently in the coming year of the farm economy.

What are your expectations for next year? For example, will the Farmers Home be able to meet the expected demand for loans?

Mr. CLARK. Well, you are right, Mr. Chairman. We are holding our breath at Farmers Home. We booked farmers loans this fiscal year probably close to \$6 billion. And our portfolio now in farmers loans is approaching \$30 billion. There is a great amount of pressure in the field.

I am not sure physically we can take that much more in the field. But we are going to try and again meet the mandates of the farm bill, if indeed they are going to be in there, that will most likely put additional stress on us for manpower and dollars. We want to do the things that historically Farmers Home has always

done. The role of lender of last resort carries with it great responsibilities, and we are going to work to meet those responsibilities.

The CHAIRMAN. Well, I hope we can move along with the farm bill because I know all the Senators on the committee are interested in the credit situation. We have got to get the farm bill out. And in the meantime, we have got to get the study made.

George, Mr. Duncan said it will take how long?

Mr. DUNLOP. That is correct, Mr. Chairman, for the Farm Credit System.

The CHAIRMAN. Mr. Clark, how do you intend to protect the Government's interest in the guaranteed loans?

Mr. CLARK. Well, again, the guaranteed program is a much more desirable way to go. Commercial bankers and the Farm Credit System I think are better lenders than we are. They do a better job, they do a better job on following up. As far as protecting the Government's interests and the taxpayers' interests, we are going to be very cautious of the loans that are booked through the guaranteed program.

In other words, we are not going to let the commercial system dump a lot of bad loans on us. I think we have to be cautious as we proceed with the guaranteed program.

I would like to see the guaranteed program forge ahead for new borrowers and even for some that need to be rewritten. But I think it should be a cautious approach and one that yet meets the needs of the American farmer.

The CHAIRMAN. You anticipated my next question. I was going to ask you: Are the taxpayers expected to pick up the tab for bad loans made by banks?

Mr. CLARK. I hope not. We are going to keep our guard up on that. Because having been on the other side, I think there was that tendency, if you can get out of a bad loan you let them take it.

The CHAIRMAN. But there is some of that going on as you know.

Mr. CLARK. I am aware of that.

The CHAIRMAN. We understand the changes that are now being processed in your regulations to encourage guaranteed loans. You touched on that. Do you want to amplify a little bit?

Mr. CLARK. I will tell you we are working hard to do that, because we think it is a logical way to go. Some of the bankers are resisting it, but I think there are 5,000 agricultural bankers in the United States, and we have signed up in excess of 2,000. So our track record has not been that bad. But it takes more push on our part.

I just met with the American Bankers Association the other day, and we have a new logo for bankers to put on the door to identify them as approved lenders. We are going to help them introduce that program for further impetus in that direction. It is the way to go I am sure.

The CHAIRMAN. You went into banking when, what year?

Mr. CLARK. Well, it is interesting. I was on the road to California from Nebraska when Pearl Harbor hit. So I went to work, I think, the Tuesday following Pearl Harbor.

The CHAIRMAN. That is awhile.

Mr. CLARK. Well, the Marine Corps got a few years out of me, too, but most of my life has been in banking.

The CHAIRMAN. You have seen a lot of farm credit, you have seen a lot of development in agriculture. Why are we in such a problem with farm credit today? If you can roll back to December 7, 1941, if you could do that, and advise the Government and the farm community as of January 1, 1942, what would you say to us?

Mr. CLARK. It is a mighty big question.

The CHAIRMAN. I know. But I think it is a good time to get it on the record.

Mr. CLARK. Well, you are asking me to go back a few years. And I do recall, in fact, I worked on a small farm as a kid in Nebraska. And I think the work ethic was as strong in those days as I hope it is today in American farmers. I think the American farmer just got carried away with visions of grandeur on size, profits, and lots of great things that looked mighty good in the last few years.

But that balloon now has burst. As to the basic problem, I can add nothing new to that. The value of the dollar, the export problems, the commodity prices, high interest rates, depreciation on land, all those things have worked to the discredit of the American farmer. He is taking a real beating now.

I think some tough decisions have to be made on who stays in that business and who leaves that business. I know it is a tough decision. Again, the farmers have a great responsibility and task ahead of them.

In financing the American farmer, I think we have to be sure the deal pencils out. If indeed it is hopeless, I cannot see financing that farmer, pushing him and rushing him to bankruptcy. I think we have to have the internal fortitude to tell our producers, you know, you are not going to make it; you had better look elsewhere.

In fact, if some had done it earlier, they might have had some assets to take in another direction. Some of them now have nothing and are completely worked out. There are many more yet to come. I am amazed by the amount of land we at Farmers Home have in inventory. I suppose in a few years we will have close to a million acres in inventory, a terrible thing to administer, and it is going to be difficult to administer out of that situation.

I have no magic answers. There are not, any cookbook solutions to the situation we are in. I think we have to walk hand in hand with the Farm Credit System, with commercial bankers, with Government to do what we can to help us work out of this terrible situation. We cannot run. We are going to have to walk, maybe crawl. But somewhere down the line, there has to be some meeting of the minds to solve this great problem.

I wish I had some better answers for you, Senator.

The CHAIRMAN. I think it is a good answer. I have a friend down in North Carolina, very prominent farmer. He has filed for bankruptcy, he was the last guy in the world I thought would be in that state. I called him yesterday to express my regrets, to chat with him.

He said, well, it is from my own dumb mistake. He said, I just overextended myself. I was betting on land acquisition and so forth. I imagine, with a reasonable amount of candor, that that would be the case with a lot of farmers. And of course, the question arises should the taxpayer be required to bail out my friend and others like him?

Let us see, just for the record, how much money did the Agency lend the farmers this year?

Mr. CLARK. Well, about \$6 billion to the farmers. Again that farm loan portfolio is pushing \$30 billion now outstanding.

The CHAIRMAN. That is farm loans and others?

Mr. CLARK. Farm loans. And the delinquency rate is a traumatic figure. The last I heard it is about 32 percent of the whole portfolio.

The CHAIRMAN. You said you met with the ABA folks the other day. I expect you are meeting with lenders almost constantly. Do you expect any problem getting the commercial lenders to increase their participation in Farmers Home guaranteed loans?

Mr. CLARK. Well, I really think they want to cooperate. By the same token, they are also looking after their own interests. I think we have to be careful and we have to have our guard up. But I think there is a cooperative spirit. I intend to work closely with those bankers in the years to come.

The CHAIRMAN. Very well.

Senator Wilson, I apologize. I did not even ask you if you had any questions for Ms. Phillips.

Senator WILSON. That is all right. I am not bashful. If I had a question for Ms. Phillips, I would have sought recognition.

I do not have a question for Mr. Clark. I do have a brief comment.

I think that in addition to the other recited qualifications which he has, he just demonstrated an admirable candor and courage. He said some things that are very unpleasant to say but, unhappily, I think they are the truth. I heard about your friend who has had intellectual honesty to admit that he has overextended.

This is the kind of thing that I hope will become commonplace in our own considerations because I think that from our own natural instincts we sympathize with those who are the victims of adversity, some of it of their own making, some of it not. It tends to make it difficult for us to be as realistic or perhaps as honest and courageous as the judgments I just heard from Mr. Clark. So I commend him for those.

The CHAIRMAN. Senator Harkin.

STATEMENT OF HON. TOM HARKIN, A U.S. SENATOR FROM IOWA

Senator HARKIN. Thank you, Mr. Chairman.

I do want to echo what my colleague from California just said. If anything is drastically needed, it is candor, not only in Washington, but around the countryside. To a certain degree we do agree with what you said about farmers.

I just made some notes here. You said farmers got carried away with visions of grandeur, size, and profits and perhaps overextended themselves. I think that is true. I think to a great degree that is true.

But the question becomes one then, I guess, of how far do you let the bottom fall out? I do not mind—in fact, I think I answered that question of McLaughlin. He quoted David Stockman as saying farmers went out and bought that high-priced land, why should we help them?

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I responded, I think to a certain extent that is true, and I have a little bit of sympathy for somebody that does that, but that is the free enterprise system. If they want to take the chance, they can take the chance. A lot of them did.

But now what we are seeing, a lot of those people, at least in my area, they are gone already, like your friend in North Carolina, Mr. Chairman. I mean, I think you are probably a little bit better than we are in Iowa that the full effect has not hit your area of the country as much as it has hit the Midwest.

But those kinds of individuals who really did go out and drastically expand their operation in the late seventies, early eighties, during that period of high inflation, they are already gone. That was the first wave, they were cut out in the first wave. A few of those are still hanging on, they are ready to go. But the bulk of those are already gone.

What we are seeing now is we are seeing farmers who did not do that, who stuck by the golden rule, who did not go out and expand and all that kind of stuff.

I will give you a classic case of a friend of mine in Iowa who did not expand. The last time he bought land was in 1972. I think he bought a hundred acres or something like that. And what happened was in the late seventies we had a drought there one year, I remember that was 1977, and then we had a period of low cattle prices. He was a cattle feeder and producer. We had some low cattle prices for 2 or 3 years. Then he had a couple of kids going to college.

So he began to begin to dig into his equity base just to finance his living, put food on the table, and keep the house in repair, and send the kids to college, and things like that. Times will get better, I will dig into my equity base since I have no cash-flow.

The bank would loan him the money. They did not say let me look at your cash-flow. They loaned him money. They were out there giving people bonuses to give farmers money. They were pushing the loans on the farmers. They said, not to worry, we do not have to look at cash-flow, look at your equity base going up every year.

All of the land-grant colleges and others were telling them that is the way to finance your operations. If you are not hiding leverage, you are not a good farmer. They heard that from the Government, from our educational institutions.

So he went out and did that. Today he is losing his farm. He did not expand. He did everything supposedly what they told him to do. And yet he is losing his farm because he dug into his equity base just to finance his daily operations over a 4- or 5-year period of time. Now there is nothing left.

So, that is what we are seeing happening in Iowa today. I think it is spreading beyond Iowa now getting into the Midwest. That is why I am concerned that at Farmers Home again an attitude of being hardnosed. I do not mind being hardnosed, but it is still a lender of last resort. You are going to see a lot of people like this farmer I am talking about coming into Farmers Home and asking for assistance.

This is where I get disturbed on the guaranteed loan provision. Guaranteed loans, I have nothing against guaranteed loans, that is

fine. But there is a 4-percent spread right now between guaranteed and direct loan. Now, for the friend of mine hanging on to his farms 4 percent is the difference whether he can survive on that family farm in the next year. With a guaranteed loan, it is 14 percent, with a direct loan it is 10 percent.

So how are you going to make those kinds of decisions? I guess what I am asking for, Mr. Clark, is what is your attitude and what is your review on direct loans as opposed to guaranteed loans? Are you for phasing out direct loans and going to guaranteed loans or what?

Mr. CLARK. First of all, Senator, you made the comment there is a lack of consideration for cash-flow. I would say in the private sector that is not true. Cash-flows have always been a part of the credit consideration. Cash-flow does receive a lot of attention. It has to be there or the loan just should not be booked.

You are absolutely right. There is an interest variance. It might not cashflow out if he has to pay the market rates, as you say 14 percent. I would envision an interest writedown provision somewhere in the farm bill or somewhere else.

I am in agreement, that if we are going to go the guaranteed route, there should be an interest writedown provision. If a commercial lender could writedown 2 percent, let the Farmers Home writedown the other 2 percent. So the borrower will be getting that preferred rate of 10 percent.

So I think there is a way to work around that, that interest variance problem. Certainly at Farmers Home we are going to be dedicated to doing that. But even then, Senator, some of them will just not pencil out.

I agree, simply having compassion for this farmer you are talking about is not the whole answer. In Iowa you are limited to a few crops. In the part of the country I come from, 200 crops makes for a great diversity. I know when you are stuck with corn and soybeans and cattle there are not a lot of directions you can go. I think we have to consider that as well.

But I hope we can get over the interest variance problem through the guaranteed program. And, no, we are not going to shut off in 1986 the direct program. I think we will have to go those routes and we will be working on a case-by-case basis. But my feeling is we should go the guaranteed route.

Senator HARKIN. I am sure you have anticipated the problem because if the bank is going to write down 2 percent they just skew up the interest rate. There are ways of taking care of writedowns. That is what I am concerned about.

Mr. CLARK. Well, Senator, there is an agreement that they cannot charge that borrower more than the rate they are charging their best agriculture borrowers.

Senator HARKIN. Will any new borrowers be able to get any direct farm loans next year?

Mr. CLARK. That is one of the options we have on the table. I do not think we have really come down to casting that yet.

Senator HARKIN. The reason I am asking is out of the farm credit we are getting a lot of orphan borrowers. Where are they going to go? I am concerned you are not going to close the door on

new borrowers. Because maybe people again with that 4-percent spread they are OK. So you have not closed the door on that?

Mr. CLARK. Again, I think we have to consider that situation when it happens. Again, we are very cognizant of the farm bill, what is going to be in that bill? We are still a lender of last resort. I am sure we are going to play that role.

Senator HARKIN. I just cannot help just saying again we are all in this thing together, Government, private industry, private banks. You have been with Bank of America, one of the largest—not the largest bank in America—is it the largest bank in America?

Mr. CLARK. I think Citicorp is pushing us in assets.

Senator HARKIN. I just saw a blurb in the paper that said the Bank of America in California had, if I am not mistaken, \$2 billion in agricultural loans outstanding in the State of California, and that they felt that about 20 percent or 25 percent of it were non-performing right now.

Mr. CLARK. I did not read that. But it was not that way when I retired.

Senator WILSON. Things can go to hell quickly.

Senator HARKIN. Great answer.

Mr. CLARK. That is true for all commercial banks. I think we have had, what, 70-some commercial banks in the United States fail this year so far. And 40 of those have been agricultural banks. It is a terrible situation, and the big banks are taking a beating as well.

In fact, someone has suggested that since I was maybe part of making those bad agricultural loans at Bank of America, I would fit right in at Farmers Home. I hope that is not true.

Senator HARKIN. Well, I just point that out to say that I think that a lot of banks in the past you say use cash-flow, but I think a lot of them basically did not pay that much attention to it.

One last thing that I have. I appreciate your indulgence, Mr. Chairman, just one last question.

We have got this Farm Credit System, you have seen the recent news come out from Governor Wilkinson they are going to be coming up here asking for some kind of bailout, this and that. They are going to have a lot of nonperforming loans out there.

If Farmers Home were to buy nonperforming loans from the Farm Credit System and troubled banks as one means to relieve the farm credit prices, would that be a good and efficient way to keep family farmers on the land and to help troubled members? Let me just rephrase that, repeat it.

If Farmers Home were to buy the nonperforming loans from the Farm Credit System and some of the troubled banks that are out there, would that be a good and efficient way to keep the family farmers on their land and help troubled lenders?

I add only as a sort of an addendum to that: Assuming, of course, that things are going to get better in the future and that farm prices will rebound, that we are in a trough now and going to come up. Obviously if farm prices are going to keep going down in the next 10 years, we have all had it. But if farm prices will come back up in the next 2 or 3 years, something like that, would this be a good way of proceeding?

Mr. CLARK. The banks would love us to do that. I do not think that is the way to do it. I think the lenders should take a hit on that too. There is still a chargeoff provision for which they have adequate reserves set aside. They ought to charge those off. Certainly it would be a viable and worthwhile effort as far as the families go to keep them in business.

Senator HARKIN. I like that answer. Because if in fact we get the banks to take a hit and get the Farm Credit System to assume some of their own losses, which they deserve to have, private banks, and then perhaps even have a farmer give up something, if all three would give up something, maybe then that might be the position Farmers Home could come in and buy some of those non-performing loans.

I wish you would really look at that as a process that we might go through.

Mr. CLARK. Be happy to consider that, Senator. Thank you.

Senator HARKIN. Thank you, Mr. Clark.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

If the committee will indulge an editorial comment by the Chair, I am convinced that if this Congress would show some guts and really do something about the deficit, that would do more about the interest rates than we are likely to be able to do with respect to legislation. But that is a song we have been singing a long time. I also believe that probably the best farm bill need not even have the word "farming" in it or mention any commodity, just move toward a balanced budget and cut the farmers' losses and let them produce for the world market. Right now we are a minority.

All right, Mr. DeVuyt, as a member of the Federal Farm Credit Board, do you feel that your primary responsibility would be to represent the banks of the district or to be a hard-nosed regulator for the entire System?

Mr. DEVUYST. Mr. Chairman, my best understanding and my personal feelings are that I should first protect the interests of the U.S. Government as a whole, and thereby protect the interests of the people. I think in doing that I would do a better job of representing the farmers also.

The CHAIRMAN. I totally agree with that. The situation involving the farm credit banks in the St. Paul district, do you want to assess it for me?

Mr. DEVUYST. I have not been on the Farm Credit Board in St. Paul nearly 3 years now. My best appraisal is that the seriousness of the problems in the district has not been overstated. I can only relate to my own community. I have had many people in my community who I considered to be the best farmers that are now in serious financial condition.

I think there are very many people like myself who have grown up with a Government program and tried to do everything that the Government and the universities told us was right. I think a lot of them got caught in a trap. Some are going to squeeze by for awhile. But current economic conditions are going to put everybody in trouble if we do not get a turnaround in commodity prices.

Most of my neighbors will tell you that their problem is not one of credit but it is one of commodity prices. They cannot produce

corn for \$1.80 and have a cost of \$2.80. It just does not work out no matter how well heeled you are.

Those who are in the worst trouble in my area are those who build up a good equity base over two or three generations, and then in the midseventies expanded to allow a son or two coming back from college to start their own farming operations. Everybody told them you could not go wrong, borrow the money, you have got the assets, mortgage it, buy the farm next door.

There was a very, very tough bidding process going on at that time, it was tough to buy a farm. And they paid more than that land was worth. Had inflation continued at the rate it was going then, they would be in no trouble today. Everything they did then would have been right, and they would have looked very good.

However, with land prices going the other way and their equity base eroding, they have cut in as far as they can go. In many cases they have borrowed everything they can just to stay afloat these last 3 years. And now there is no way they can pay it off.

I have seen too many of my friends and neighbors go broke. I do not want to see another one. I think that all farmers in this country, no matter where they started economically, are on the same ladder. Every time we cut a rung off, we all get a little closer to the bottom.

I think the Senator stated it very well when he said those who went out and overextended in a manner way beyond what any of us should have as prudent farmers and managers, are gone. I have seen that in my area. There were not too many of those because we do not have that type of farming where people buy 2,000, 3,000 or 4,000 acres like in some of the Western States or the breadbasket area. But those who doubled and tripled their operations are already gone.

Now we are looking at those operations where it took three or four generations to build a family farm, now those are in trouble. I think that is a very serious threat to all agriculture.

The CHAIRMAN. I think that is a very sensible analysis of it. There is no question that a lot of farmers are riding that inflation curb up and then do not know what they have got to do when it is going down.

Do not let me put you on the spot. This is the last question of the last nominee. You have not participated in the last deliberations of the Farm Credit Board, but I think the record would be interesting to have you reflect on what might be done, at least from possible options available to Congress to assist the credit system in resolving the obvious difficulties. Do you have any thoughts on that?

I will not pressure you, but as an active farmer, I think it would be interesting to hear from you to whatever extent you wish to comment.

Mr. DEVUYST. Well, Mr. Chairman, I do not know what the bottom line is. I, like you and other members of the committee, am waiting to hear more of how serious the problem is and to have some real facts to work with. I think that whatever those facts are, the Farm Credit Administration, this committee, and other committees that are interested, the entire Congress and the administration, need to sit down and work together to find the right solution for everybody.

As I stated earlier, not only is the impact unknown at this time, we do not have any idea how really serious the problem is until this thing starts to straighten out. I think when you have the farm bill completed, we will have a little better grasp of where we are going in 1986 and 1987. That will help us too.

The CHAIRMAN. All right. I thoroughly agree. We are not going to try to move operating procedures by the britches. We are going to get the facts and then have a better consideration of it. Sometimes I think Congress makes its worst mistakes, not only in farm matters, but economic matters in general, foreign policy vis-a-vis the South Africa thing, when we act in an atmosphere of emotionalism.

I think that was a grievous mistake, for example, with respect to the sanctions against South Africa. Whom do we want to help? The President is being quite courageous, I think, today in trying to resolve that thing so that the agenda of the Congress can be the farm crisis, can be the budget difficulties, and that sort of thing instead of having Congress spinning its wheels on an emotional debate on something that is really nonsequitur, nonsequitur being apartheid, because everybody is opposed to that.

Thank you for your patience this morning. The committee will seize the very first opportunity, and I will assemble a quorum of the committee, and undoubtedly we will vote out your nominations. Then I shall work with the majority leader to have them acted on as expeditiously as possible.

Again I say, the President has done himself proud with the nomination of each of you.

If there be no further business to come before the committee we stand adjourned.

[Whereupon, at 11:27 a.m., the committee adjourned, subject to call of the Chair.]

COMMITTEE NOTE.—

Sept. 20, 1985, the nomination of Susan Meredith Phillips was reported to the Senate. Oct. 16, 1985, the nominee was confirmed by the Senate.

Sept. 20, 1985, the nomination of Vance L. Clark was reported to the Senate. Nov. 6, 1985, the nominee was confirmed by the Senate.

Sept. 20, 1985, the nomination of Larry L. DeVuyst was reported to the Senate. Oct. 16, 1985, the nominee was confirmed by the Senate.

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APPENDIX

STATEMENT OF SUSAN M. PHILLIPS, CHAIRMAN, COMMODITY FUTURES TRADING COMMISSION

Mr. Chairman and Senators, I am honored to be here this morning as the President's nominee to serve a second term as a Commissioner and Chairman of the Commodity Futures Trading Commission. As I believe most of you know, I was sworn in as a Commissioner November 16, 1981, and I have served as Chairman since November, 1983.

The past three and one-half years have been exciting for me personally—and successful, I believe, for the development of the Commission and the industry and markets regulated by the Commission.

There is a great deal remaining before us—reauthorization is next year—and, if confirmed, I look forward to a lot of hard but challenging work in the months to come as we assist the Committee with appropriate changes, if any, to the Commodity Exchange Act ("CEA"). The Commission now has its full complement of Commissioners who, I believe, are dedicated and committed and a staff equal to any task that may be set before it.

Mr. Chairman, as your staff requested, I also am prepared today to discuss with you and the Committee several important issues current at the Commission.

DEFAULT ON THE COMMODITY EXCHANGE (COMEX)

As many members of the Committee may know by now, the Commission's Division of Enforcement filed a nine-count administrative complaint in connection with events leading up to and arising from the default of Volume Investors Corporation (Volume) on March 20, 1985. Named as respondents to the complaint were Volume, a futures commission merchant (FCM); Charles Federbush and Owen Morrissey, the principals of Volume; the Commodity Exchange, Inc. (Comex) and Comex Clearing Association, Inc. (Comex Clearing); and James Paruch, Gerald Westheimer and Valerie Westheimer, who were customers of Volume as well as members of Comex.

In the complaint, the Commission alleged that Volume had insufficient customer segregated funds and was not in compliance with the Commission's minimum capital requirements for an FCM from March 19 through March 21, 1985. Volume allegedly was aided and abetted in these violations by Morrissey and Federbush.

The Commission also alleged in its complaint that Comex Clearing aided and abetted Volume's segregated funds violation when it issued a margin call to Volume on March 20 and, notwithstanding its knowledge of Volume's financial condition, accepted a margin payment on that date from Volume.

The complaint also charged that Volume and Morrissey cheated and defrauded or attempted to cheat and defraud some of Volume's customers. This charge alleged that on March 20, Morrissey and other individuals acting on behalf of Volume advised certain Volume customers to transfer their positions and funds from Volume. The complaint alleged that other Volume customers were not advised to transfer their positions and funds or informed of Volume's financial condition at that time. Thereafter, approximately \$3.9 million in Treasury bills and cash in certain accounts was allegedly transferred from Volume.

James Paruch, Gerald Westheimer and Valerie Westheimer were charged in the complaint with violating the speculative position limits for gold options established by Comex. In addition, Comex was charged with failing to enforce its rules and regulations regarding speculative position limits against these three traders whose combined positions on 51 days in 1985 exceeded these limits. Volume, Charles Federbush and Owen Morrissey were also charged with a failure to supervise diligently the handling of commodity interest accounts at Volume, since they did not take appropriate action to reduce the aggregate position of these three traders.

Additionally, Comex was charged with failing to enforce its financial rules and regulations by not suspending Volume's Comex membership on March 20, 1985. Likewise, Comex Clearing was charged with failing to enforce its financial rules by not declaring Volume in default on the same day. Comex also was charged with Comex Clearing's violation because Comex Clearing was functioning as an agent of Comex.

Finally, Comex was charged with violating the terms of an order entered by the Commission on November 19, 1984 in an unrelated action, *In the Matter of the Commodity Exchange, Inc.* In that case, the Commission ordered Comex to cease and desist from violating those provisions of the Act and regulations that require an exchange to enforce its rules and regulations. In the present complaint, the Commission alleges that Comex's failures to enforce its rules and regulations (1) regarding speculative position limits against James Paruch and the Westheimers, and, (2) regarding its financial rules against Volume, constitute a violation of the November 19, 1984 order.

Sanctions available under the Commodity Exchange Act against the respondents include civil penalties of not more than \$100,000 for each violation of the Commodity Exchange Act or Commission regulations, a prohibition from trading on markets regulated by the Commission, cease and desist orders, and suspension or revocation of the registrations or designations of the various respondents, including Comex.

The respondents have 20 days from the date the complaints are served in which to respond to the charges.

Prior to the enforcement action, the Commission met to review a staff report on the circumstances surrounding the default of Volume and to explore any regulatory implications of the default. The report stated that Volume failed to meet a clearing-house margin call as a result of three of its customers not meeting their margin calls. Those customers who were, incidentally, Comex members, had written uncovered short call gold options. When the price of gold increased nearly \$36 an ounce on March 19, 1985, the three customers were unable to meet their obligations to Volume, and Volume, in turn, defaulted to Comex Clearing. As I have noted in previous communications with Committee staff, in view of the evidence available to the Commission which indicates that Volume had become undercapitalized and consistent with CFTC rules and regulations, the Commission authorized the filing of a complaint in federal court seeking injunctive relief and the appointment of a receiver for Volume the evening of March 20. An order was signed early on the morning of March 21, 1985, by the U.S. District Court for the Southern District of New York. The court issued a preliminary injunction and appointed a temporary receiver to take over control of Volume. The temporary receiver that same day obtained a temporary restraining order and order of attachment against the three traders.

Late in April, the Commission requested the federal judge overseeing the receivership to enter an order expressly to authorize the receiver to formulate for the Court's consideration a plan to make a preliminary distribution of funds. A permanent equity receiver with such expressed power was appointed May 6, 1985. Several private suits and countersuits are currently before the federal court, and other private actions might also be filed before this matter finally is resolved.

OPTION PILOT PROGRAMS

The Volume default raised certain policy issues for the Commission with respect to the exchanges' option programs. As you know, exchange-traded options—agricultural and nonagricultural—currently are traded under the limitations of pilot programs. A few days after the Volume default, the Commission requested the Division of Trading and Markets to assess the mechanisms all contract markets have in place to address the capital risks related to position concentrations.

The Division of Trading and Markets noted that the consequences of the Volume default and subsequent actions could largely have been avoided if rules now on the books had been strictly enforced. The Commission staff nevertheless identified several possible regulatory improvements that could be made and the Commission approved staff recommendations for the following measures:

FCM (Futures Commission Merchant) Net Capital.—The Commission voted to propose amendments to its minimum financial standards for FCMs (Rule 1.17) which would, among other things, require FCMs to take a charge against adjusted net capital for certain position concentrations in futures and/or options, thus limiting the permitted market exposure for each FCM commensurate with its financial means.

Margin for options positions.—The Commission voted to articulate through published guidelines its standards for reviewing and approving margin systems for options proposed by exchanges. These standards, which have been published for com-

ment, would require, among other things, that margin for short option positions must include a reasonable amount to reflect risk beyond the option premium itself.

Liquidation plan.—The Commission voted to seek public comment on whether to propose rules requiring each exchange to have explicit procedures for the transfer or liquidation of customer positions in the event of default by an FCM which does not culminate in a bankruptcy petition being filed.

Commodity account protection.—The Commission voted to ask the National Futures Association to examine the feasibility and cost-effectiveness of some type of commodity account insurance protection to reduce customer losses stemming from FCM failures, and to report its preliminary conclusions within six months.

The Division of Trading and Markets also amended its Financial and Segregation Interpretation 4 which specifies the Division's expectations about how designated self-regulatory organizations' (SROs) audit and financial surveillance programs should be structured to meet Commission requirements. The revisions specifically address compliance programs which are related to the Volume case such as surveillance of the positions carried by FCMs and auditing for the segregation of customer funds.

In its report to the Commission the Division also recommended that all clearing organizations be authorized by their rules to issue margin calls on an intra-day basis for both variation and original margin in order to react to changing market conditions in futures and/or options. Further, the Division recommended that clearing organizations develop a system of sharing position information to firms holding clearing memberships at several different exchanges simultaneously.

These concerns must be addressed before the options pilot programs can be significantly expanded. Nevertheless, there is little reason to believe options trading should not continue and be expanded once these areas are reviewed and the Commission is assured that necessary safeguards are in place.

FEDERAL REGULATORY COORDINATION

Recent defaults of several government securities dealers not under CFTC regulatory jurisdiction—E.S.M., Parr Securities and Bevil, Bresler and Schulman ("BBS")—have demonstrated the intricate interrelationships of the financial markets. The U.S. financial system does offer a diverse array of services and instruments through an increasingly complex, deregulated and competitive structure.

The failure of E.S.M. and its customer savings and loan institutions in Ohio did not affect any CFTC registrant, but when BBS failed to meet its obligations, the CFTC was tangentially involved. One of the subsidiaries of BBS, BBS Securities, which was registered as a futures commission merchant with the CFTC and with the Securities and Exchange Commission ("SEC") as a broker-dealer, was put into receivership by the SEC. BBS Securities carried its accounts on a fully disclosed basis at a separate Chicago Board of Trade ("CBT") member firm and, in addition, was a large trader on several exchanges. As a result of dealings with BBS by an affiliated firm, First Lasalle Financial Services, Inc. ("First Lasalle"), a clearing member of the CBT and the Chicago Mercantile Exchange, became undercapitalized and so notified the two exchanges, which in turn notified the CFTC. Due to the capital inadequacy and pursuant to exchange and CFTC rules, the customer accounts of First Lasalle and BBS Securities were transferred to other clearing members. These transfers occurred without incident, and First Lasalle and its affiliated firm subsequently declared bankruptcy.

Although commodity customer funds were not in jeopardy, this incident demonstrates the need for regulators to share information and coordinate any kind of enforcement action. The Commission and its staff continue to seek the cooperation of banking and securities regulators to strengthen liaison relationships, especially with respect to enforcement or bankruptcy proceedings.

LEVERAGE

On March 20, 1985, I testified before the House Subcommittee on Conservation, Credit and Rural Development on two types of off-exchange instruments under the Commission's statutory jurisdiction—leverage transactions and dealer options. A copy of that testimony was supplied to the Committee for its records. Today at your request, I will confine my remarks to leverage contracts only. By way of background, the March hearings were held in response to language incorporated into the Senate appropriations bill for Agriculture and related agencies for Fiscal Year 1985. In brief, that amendment would have prohibited the Commission from expending resources on any expansion of the Commission's regulatory program for leverage; however, it was deleted in conference committee. Since members of this Committee

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played a role in writing that language, I wish to spend a good portion of my time this morning discussing leverage.

As I noted to the House Subcommittee, I want to make it clear from the outset that the Commission does not anticipate lifting the moratoria on new products or new entrants at this time. The Commission believes that expansion of the leverage program is not advisable in view of the fact that our comprehensive regulatory structure is untested and still only in the early stages of implementation. I should point out that only International Precious Metals Corporation ("IPMC") currently is registered as a Leverage Transaction Merchant ("LTM") under this new regulatory framework.

Generally, the leverage regulatory program is quite technical and resource intensive to administer, due to the nature of the instruments being regulated, the operational differences in the leverage firms, and the absence of a self-regulatory organization.

The Commission was given clear direction in its 1982 reauthorization, to develop a program for the regulation of leverage transactions. But Congress emphasized that the Commission's moratoria on new entrants and products should stay in place until the Commission determined it was prudent to lift them. The Commission published proposed regulations for comment on June 23, 1983, and on January 16, 1984, the Commission adopted interim final rules to govern long leverage transactions.

Although the January, 1984, regulations did not encompass the regulation of short leverage transactions, several comments received on the proposed regulations suggested that short leverage transactions should be included in the leverage regulatory program. On March 8, 1984, the Commission requested comment on whether and how the interim final leverage rules could be amended to encompass short leverage transactions.

On June 12, 1984, in a public meeting, the Commission approved the incorporation of short leverage transactions and directed the staff to draft the necessary technical and conforming changes.

On January 2, 1985, the Commission published the technical and conforming amendments to its interim final regulations to accommodate short leverage transactions. At the same time, the Commission published certain proposed substantive amendments to the interim final rules. The regulations to accommodate short leverage transactions became effective February 1, 1985, and the Commission approved on August 29, 1985, the substantive amendments to complete the final interim rules for leverage transactions.

The following are the major elements of the Commission's leverage program:

1. Leverage moratoria

There is a moratorium on the entry of new firms into the leverage business. In addition, the types of commodities that these firms may offer to the public under the standard leverage agreement are limited currently to gold and silver bullion and bulk coins, platinum, copper, and certain foreign currencies. To qualify under the moratoria, firms must demonstrate they were offering contracts on June 1, 1978, for gold and silver bullion and bulk coins and on February 2, 1979, for other leverage commodities for each registration.

2. Leverage definition

Briefly, a leverage contract under the Commission's rules is a standardized agreement for the long-term (10 years or more) purchase or sale by a leverage customer of a leverage commodity.

The contract provides for: (a) participation by the LTM as a principal in each transaction; (b) initial and maintenance margin payments; (c) periodic payment by the leverage customer or accrual of certain variable charges or fees; (d) delivery of a commodity in any amount and form which can be readily purchased and sold in normal commercial or retail channels; (e) delivery of the leverage commodity after satisfaction of the balance due on the contract; and (f) determination of the contract prices made by the LTM.

3. Registration

More is involved to register an LTM than a futures commission merchant. Indeed, the review required for an LTM involves much the same resources as are necessary to determine whether to grant designation as a contract market to a new commodity exchange.

As mentioned earlier, an LTM is the registration category of a firm offering leverage contracts. Principals of the firms must pass fitness checks and sales personnel and certain supervisors must register as Associated Persons ("APs") of the LTM. In addition, leverage commodities also are required to be registered.

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4. Net capital requirements

The Commission's net capital requirements are designed to assure the financial integrity of the firm. This is particularly important since the LTM is on the other side of every trade and is the only source for resale or repurchase of the contract and ultimate delivery, if any, on the contract.

In addition, there are certain segregation, cover, sales practice, repurchase, disclosure, recordkeeping and reporting requirements contained in the rules.

The Commission's leverage regulations generally have been effective since April 13, 1984, although various aspects of them have been implemented in a phased fashion. Three firms have applied for registration as LTMs. Monex International, Ltd. ("Monex") and First Asset Corporation (formerly, American Coin Exchange, Inc.) have continued to operate in reliance upon the "grandfather" provisions of the leverage rules. As I mentioned earlier IPMC is registered.

Under the Commission's regulatory structure for leverage, a number of steps must be completed before a final determination can be made to grant LTM registration: (1) fitness checks on principals and APs; (2) financial audit; (3) sales practice audit; (4) review of Disclosure Documents; (5) review of moratoria compliance materials.

The registration process has involved the accommodation of formerly unregulated, ongoing businesses into a new regulatory framework of substantial complexity. As a consequence, significant time has been expended in addressing exemption requests from the firms based upon their need to phase into compliance with the regulations because of particular characteristics of their individual operations.

Monex and First Asset Corporation have taken a number of steps to comply with the Commission's registration requirements. Before final consideration of these applications, however, the Commission has decided to conduct an open public hearing concerning these applications. This hearing is scheduled for September 18, 1985. After having an opportunity to hear the views of interested members of the public, the Commission will consider the applications of the firms for LTM registration and for the registration of commodities.

In view of the complexity of the issues involved and the Commission's need to evaluate fully the effectiveness and efficiency of the regulatory program developed for the trading of leverage instruments, the Commission does not plan to lift the moratoria any time soon. The Committee may be assured that the Commission will not move precipitously in this area. We want to be sure that effective regulations are in place, and that those regulations have been tested before we allow any expansion of off-exchange trading, an area which the Congress has traditionally recognized as fraught with difficulties.

Both the regulation of off-exchange trading and the enforcement effort against abuses in this area are resource-intensive for the Commission, and present a number of challenges for the Commission. During the 1982 reauthorization proceedings, as many of you will recall, off-exchange commodity fraud was a subject of intense debate. Based on the number of illegal businesses selling instruments similar to leverage contracts, the Commodity Exchange Act was amended to clarify states' jurisdiction pertaining to commodity-related activities conducted outside the Commission's regulatory structure. In addition, the North American Securities Administrators Association ("NASAA") has approved a model state commodity code for dealing with off-exchange commodity fraud, which both recognizes this new authority and complements the Commission's leverage regulatory program. At this time, the states of Missouri and New Mexico have adopted versions of the model code. According to NASAA officials, several other states have it under consideration. They are Illinois, Pennsylvania, Washington, Oregon, Arizona and Maine.

In sum, the Commission believes that significant progress has been made to develop a comprehensive regulatory program for the off-exchange offering of leverage contracts by LTMs. In view of the inherent dangers of off-exchange instruments as recognized by the Congress, the Commission has moved cautiously to implement its regulatory program. The program has a number of safeguards built into it, and the standards for gaining federal registration status as an LTM are high, in specific recognition of the dangers to the public of contracts for future delivery of a commodity outside of the protection of a self-regulatory exchange environment. Since the Commission's regulatory program still is being implemented and the states' efforts to pass legislation to deal with off-exchange commodity fraud are in their early stages, it is premature for the Commission to assess whether or not adequate protections are in place to consider lifting the moratoria.

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CONTRACT DESIGNATIONS AND NEW EXCHANGES

So far during fiscal year 1985, the CFTC has designated 16 new option contract markets and six new futures contract markets. Included in the 16 option market designations are nine options on domestic agricultural commodity futures contracts, the first to be approved under the Commission's agricultural options pilot program. Also included in the options designations are two options on physical commodities: the AMEX Commodities Corporation gold bullion option and the Philadelphia Board of Trade Eurodollar time deposit option. Each of the latter two option contracts is settled in cash upon exercise, and each is traded on a new commodities exchange.

Two of the four futures contracts approved for trading by the CFTC during FY 1985 extended futures trading into previously uncharted areas. In April, 1985, the Commission approved a contract based on the Consumer Price Index to be traded on the Coffee Sugar and Cocoa Exchange; and in May, 1985, the Commission approved a long-term municipal bond index contract to be traded on the CBT. The CPI contract can be used by financial institutions, for example, for hedging real interest rate fluctuations and by firms with labor agreements containing cost-of-living adjustment clauses to hedge wage increases precipitated by such clauses. The municipal bond contract, which is based on an index of 40 long-term municipal bonds, likely will be used for hedging municipal bond values by bond dealers, underwriters and institutional investors.

There currently are 32 designation applications pending CFTC review, 27 for futures contracts and five for option contracts, with 13 of the proposed futures contracts submitted in the last five months. Recent submissions involve a number of innovative financial futures contract proposals, including five contracts based on zero-coupon Treasury instruments, four contracts based on indices of over-the-counter stocks, one contract based on a foreign stock index, one contract based on a trade-weighted U.S. dollar index, and four contracts based on European Currency Units.

ENFORCEMENT ACTIVITIES

Although the Commission's Division of Enforcement activities during the past fiscal year have centered upon the traditional responsibilities of investigating violations of the Act and providing injunctive relief necessary to protect public funds that may be in jeopardy, these activities have required the Division to utilize its resources swiftly and creatively in its efforts to police expanding commodity market usage.

As I have noted already, the Division of Enforcement acted quickly the night of March 20, 1985, successfully obtaining the appointment of a receiver to oversee the assets of Volume Investors Corporation. This action enabled the receiver to attach the assets of the three defaulting traders on the Commodity Exchange, Inc. Subsequently, the Division also filed administrative charges resulting from the default. Other activities include an administrative action alleging manipulation of the silver market during 1979-80, an injunctive action against a Futures Commission Merchant alleging churning and unauthorized trading, two cooperative injunctive actions with the Securities and Exchange Commission as co-plaintiff against unregistered commodity pool operators charged with defrauding approximately 1100 investors out of more than \$58 million, and the filing of three administrative cases charging two commodity exchanges with failure to enforce their rules and failure to maintain continuing affirmative action programs to secure compliance with the Act and their rules.

During fiscal year 1984, the Commission instituted 18 injunctive actions, the highest number of such actions since FY 1980. In excess of \$9 million of customer funds and other assets were placed under the protection of equity receivers in injunctive actions.

The Commission also instituted 50 administrative enforcement proceedings during 1984, and litigation of various administrative actions resulted in the suspension, revocation or denial of 63 registrations. Civil monetary penalties of \$3,501,800 were imposed on 72 individuals or firms; 109 individuals or firms were subject to cease and desist orders and 73 individuals or firms were prohibited from trading on contract markets.

During last year, the Commission expanded and improved several aspects of its enforcement program. In an attempt to address the problem of increased off-exchange commodity fraud in Southern California, the size of the Los Angeles regional office was increased. In addition, two new units—the State/Federal Liaison Unit and the Multi-District Fraud Unit—were formed within the Division's Washington office. The State/Federal Liaison Unit provides expertise and other assistance to

state and local prosecutors and state securities administrators. The Multi-District Fraud Unit was created to investigate and take action against large-scale or complex fraudulent schemes. Generally, this unit handles matters that might otherwise completely divert the resources of a regional office if the regional office were to attempt the investigation and prosecution.

The Commission, also through the Division of Enforcement, has conducted seminars to assist Federal law enforcement officials, including the FBI and the I.R.S., and the State law enforcement officials, in combatting off-exchange fraud.

REPARATIONS

The Congress made several changes in the Commission's reparations programs in the Futures Trading Act of 1982. Those changes have been incorporated into our rules and regulations and have been effective since April 23, 1984.

From that date through April 30 of this year, there were 441 complaints filed, about the same number as the previous year. When the rules were first put into effect, a number of complaints had to be returned because they were incorrectly filed or required more information. Although a smaller percentage of complaints are now being returned, the number of complaints and answers that are deficient are still high. During the first six months of experience under the new rules, slightly more than half of the complaints were returned because they were deficient. During the second six months, deficiency letters were sent to complainants in approximately 39 percent of the cases and 56 percent of the respondents' answers were returned for deficiencies. Changes in communications to potential complainants have been made to more fully describe how the new rules work and how applications may be made.

Generally, the Commission feels the new rules have been beneficial. The quality of complaints is higher; fewer cases are being filed which must be terminated; and the procedures are working smoothly. Since the new rules have gone into effect the Administrative Law Judges and Judgment Officers have made major strides toward reducing the backlog of cases of pending for disposition. On March 31, 1984, (three weeks prior to the effective date of the new rules), these presiding officers collectively had a caseload of 905 cases awaiting disposition. As of June 30, 1985, this figure declined to 514. Correspondingly, the time from when a case is forwarded to when a decision is rendered has decreased significantly.

As for the Commission's appellate docket, reparations appeals have remained fairly constant: 136 matters were filed in Fiscal Year 1983; 126 were filed in Fiscal Year 1984; and 112 have been filed during the first ten months of Fiscal Year 1985 (through July 31, 1985).

In contrast, Commission productivity (defined in terms of outgoing CFTC opinions and orders) has increased substantially over the same period: 108 orders and opinions were issued in reparation cases during Fiscal Year 1983; 168 such orders and opinions were issued in Fiscal Year 1984; and 137 such orders and opinions have been issued during the first ten months of Fiscal Year 1985 (through July 31, 1985). At this rate, Commission productivity for this fiscal year would be the highest in the agency's history.

The total backlog of reparation cases on the CFTC's appellate docket—defined as those cases in which a party has filed an appeal from an initial decision but the appeal has not yet been resolved by a Commission decision—has decreased from 177 cases on September 30, 1983 to 135 cases on September 30, 1984 and to 121 cases on July 31, 1985. Moreover, the relative age of the appellate backlog is decreasing steadily. As of September 30, 1984, there were 51 reparation appeals that had been pending on the Commission's appellate docket for more than one year. By September 30, 1985, we expect that no reparation will have been pending on appeal for more than one year and that the median age of all such cases on the Commission's docket will be six months.

We attribute this increased productivity and reduced backlog to several factors, including, a temporary decrease in new reparation case filings which has permitted our Administrative Law Judges to concentrate their efforts on deciding reparation cases previously filed; streamlined reparation procedures, including revisions to Section 14 of the Act in 1982 and the adoption of new reparation procedures, effective April, 1984; and augmentation of the professional staff within the Office of the General Counsel and assignment of appellate reparation cases as priority matters.

AUDIT TRAILS

The Committee members have been receiving communications from the Commission about our audit trail proposal for some time. The Commission published its pro-

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posal for public comment in the Federal Register on December 24, 1984, and the extended comment period closed on April 26, 1985. Commission staff currently is reviewing all of the comments received, and the Commission will consider final rules in the near future.

The Commission has received 58 comment letters on the audit trail proposal. I should point out that 27 of those comments were from individuals or organizations associated with agricultural interests which favored the Commission's proposal. Eighteen other comment letters opposed the proposed rules for various reasons, and several exchanges submitted alternative proposals. The proposed amendments are intended to improve exchange audit trails in accordance with performance standards set by the Commission. In particular, each contract market would be required to adopt, implement, and enforce rules which provide for the sequential reconstruction of trading and the verifiable mechanical or electronic recordation of the time of trade execution. The proposed amendments would, however, permit contract markets, which were unable to meet the final standard, to achieve interim compliance by manual recordation of the time of trade execution. The Commission noted that the proposal was intended to be a "performance standard" rather than a "design standard," to permit the exchanges to select the most appropriate systems to accomplish the goals of improved audit trails. The current bracketing requirement is generally not adequate for trade reconstruction purposes.

As part of its oversight responsibilities, the Commission has always monitored exchange trade reconstruction capability to determine exchanges' abilities to enforce certain trading rules consistent with the Commodity Exchange Act and CFTC rules and regulations. The current proposal is the outgrowth of this ongoing review, the review of bracketing accuracy under the current requirement of 30-minute bracketing of trades, and explicit Commission directives relating to its studies and investigations of certain markets and trading practices.

Specifically, in September, 1984, the Commission's "insider trading" study concluded that limitations of 30-minute bracketing data for preventing or detecting and prosecuting those insider trading abuses related to dual trading made advisable rulemaking which would require the exchanges to improve the speed and reconstruction of trade sequences. The study also indicated that such rulemaking might consider permitting the exchanges to elect to bar dual trading in their most liquid, active markets.

Also in the fall of 1984, the Commission released a summary of its study of soybean futures trading on the CBT from August through December, 1983. In the press release which accompanied this summary, the Commission emphasized the need for the commodity exchanges to develop detailed, accurate and automated audit trail systems to permit accurate analysis of intra-day trading patterns and their impact on intra-day price movements.

Prior to the completion of these studies, the Commission requested a review of bracketing data as a result of exchange rule enforcement reviews in 1983. In particular, the Commission was concerned about the effective use of bracketing data under the self-regulatory requirements of the Act. The results of this review noted bracketing accuracy rates of approximately 70 percent at the larger exchanges and that certain exchanges did not consider bracketing data particularly valuable in conducting investigations. The issue of trade time recordation also was raised in January, 1984, when the Commission was asked to approve 30-minute bracketing rules for the New York Mercantile Exchange ("NYMEX"), which then had a pit slip system in which the time of the trade execution was recorded to the nearest minute. Despite Commission authorization of NYMEX's bracketing rules, NYMEX advised the Commission that it would continue to explore trade-timing alternatives and that it would not implement 30-minute bracketing. The NYMEX continues to use its pit slip system. Notably, two other exchanges, the Kansas City Board of Trade and the Minneapolis Grain Exchange, have one-minute manual timing systems. Of the 60 contracts now actively traded, only 10 have more average transactions per day than the number of transactions for a recent day on the NYMEX.

When the Commission proposed the amendments to audit trail reporting procedures [Regulation 1.35(g)], it noted three important benefits of the improvements in an audit trail that could result from implementation of this proposal. First, the more precise trade execution time standard would improve dramatically the surveillance capabilities of both the exchanges and the Commission. A second important benefit of the proposed amendments would be the improvement in the ability of the exchanges and the Commission to prove successfully instances of suspected trade practice abuse. Use of trade reconstruction based on 30-minute bracketing may, in many instances, preclude, or make difficult, determinations by adjudicatory bodies that a trading abuse or attempted manipulation has occurred. Finally, the Commis-

sion believes that a third important benefit of the proposed amendments to regulation 1.35(g) would be the deterrent effect that would necessarily flow from the enhanced ability of both the exchanges and the Commission to enhance integrity in the markets. These benefits must, of course, be weighed against the costs of implementing the new systems and the staff is currently examining various alternative approaches, their costs, effects and benefits.

In connection with its proposal to amend regulation 1.35(g), Commission staff has observed actual trading in the pits and reviewed the trade-timing and audit trail systems employed at all futures exchanges. The staff also has examined the trading and audit trail systems employed by a number of exchanges regulated by the SEC.

The Commission is aware that each of the existing 13 exchanges is unique and has different volumes, trading participants, types of contracts, customer bases, and automated and manual surveillance capabilities. Commission staff is considering all these factors and the public comments on the proposed rule amendments in the process of developing final rule amendments.

In closing, I am pleased to have this opportunity to appear before the Committee as the President's nominee to Chair the Commodity Futures Trading Commission. In that connection, I appreciate the opportunity to bring the Committee up to date on the Commission's activities. On behalf of the Commission, let me express my appreciation to the Committee for its interest in and support of our programs as well as the constructive approach to oversight the Committee has taken with respect to the Commission. I believe the CFTC has made considerable progress in developing its regulatory programs largely due to the positive support and oversight of this Committee.

CURRICULUM VITAE OF SUSAN M. PHILLIPS, SEPTEMBER 1983

Personal:

Date and place of birth: December 23, 1944; Richmond, Virginia.

Education:

1967—B.A. (Mathematics, Economics); Agnes Scott College.

1971—M.S. (Finance, Economics); Louisiana State University.

1973—Ph.D. (Finance; minors: Economics, Management); Louisiana State University (Dissertation: "The Portability Concept: Development, Growth and Future Direction"; State Farm Companies Foundation. Dissertation Grant).

Employment:

1967-1969—Research Assistant, later Research Technician in Group Pension.

Summer 1970—Actuarial and Research Department, John Hancock Mutual Life.

January 1971—Insurance Co., Boston, MA.

1973-1974—Assistant Professor, Finance Department, Louisiana State University.

1974-1978—Assistant Professor, Department of Business Administration, University of Iowa (on leave from June 1976 to July 1978).

July 1976-July 1978—Brookings Economic Policy Fellow (1976-77), SEC Economic Fellow (1977-78); Directorate of Economic and Policy Research, Securities and Exchange Commission.

April 1978-Present—Associate Professor, Finance Department, University of Iowa (on leave from November 1981 to present).

February 1979-November 1981—Associate Vice President of Finance and University Services, University of Iowa (Interim Assistant Vice President, February 1979-June 1980).

November 1981 to present—Commissioner, Commodity Futures Trading Commission, 2033 K Street, N.W., Suite 804, Washington, D.C. 20581 (Acting Chairman, May 1983 to present).

Professional affiliations and activities:

American Finance Association, Southern Risk and Insurance Association (Secretary/Treasurer, 1975-76; Second Vice President—Program Chairman, 1976-77; First Vice President, 1977-78; President, 1978-79).

Public testimony (other than related to job):

Expert. Witness on Private Pension Portability Before the Subcommittee on Retirement Income and Employment of the Select Committee on Aging, U.S. House of Representatives, April 6, 1978.

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Honors and awards:

Phi Beta Kappa, Beta Gamma Sigma, Agnes Scott College, April 1971; Chicago Board Options Exchange Pomerance Prize Award (Outstanding Research in Options), December 1980; Outstanding Alumna Award, Agnes Scott College, April 1982.

[The following letter was inserted by Senator Helms:]

COMMODITY FUTURES TRADING COMMISSION,
Washington, DC, September 6, 1985.

Hon. JESSE HELMS,
Chairman, Senate Committee on Agriculture, Forestry and Nutrition, U.S. Senate,
Washington, DC.

DEAR MR. CHAIRMAN: For many years I have admired the work of your distinguished committee, and while I recognize the Committee exercises superb judgment on its own, I nevertheless want to express my strong support for the President's choice of the Honorable Susan M. Phillips to serve another term as Chairman of the Commodity Futures Trading Commission.

Susan is an outstanding person and it would be hard to imagine how anyone could be more fair, honest and dedicated as Chairman. Under her direction, the Commission is becoming far more efficient as a regulatory agency. Without such superb organization it is doubtful we could comply with the extensive mandate of Congress to regulate the versatile and expanding commodities industry.

As a Commissioner I appreciate Susan's efforts to assure that my views are heard even when she, as Chairman, could take unilateral action without consulting her colleagues. To try to arrive at a consensus makes her job more difficult but I can assure you it increases the admiration she receives and deserves for her constant pursuit of the goal of fairness.

The President made a marvelous choice when he chose Susan to chair the CFTC, and it is my honor to have had the opportunity to serve under her leadership. Not only does she have great ability, but she has those unique qualities of honesty and fairness that do not always accompany those with her ability.

Mr. Chairman, may I respectfully request that my letter be made a part of the hearing record.

Sincerely,

FOWLER C. WEST, Commissioner.

BIOGRAPHICAL BACKGROUND OF VANCE L. CLARK, ADMINISTRATOR-DESIGNATE,
FARMERS HOME ADMINISTRATION, U.S. DEPARTMENT OF AGRICULTURE

Vance L. Clark, a veteran banker with extensive experience in agricultural credit, was appointed by President Reagan on Aug. 9, 1985, to be administrator of the Farmer Home Administration, the principal credit agency of the U.S. Department of Agriculture.

During his professional career, Clark spent 42 years with the Bank of America. Upon his retirement in 1983, he was regional senior vice president with offices in Fresno and overall responsibility for the bank's operations in the San Joaquin Valley through 104 branches with 3,200 employees.

Clark was born Sept. 17, 1923, in St. Paul, Neb., where he grew up and attended Nebraska Business College. Upon graduation in 1941, he joined the Bank of America in its Los Angeles district. He served in a number of the bank's offices while advancing up the career ladder and serving the credit needs of California's diverse agricultural community, as well as other clients.

He served in the Pacific campaign as a member of the Marine Corps from 1943 to 1946, and was called back to active duty in 1950 during the Korean conflict.

His education includes graduation from the University of California at Los Angeles Graduate School of Business Executive Development, the Pomona College executive program, the Brookings Institution government operations conference, and courses in such fields as farm management and financing and crop production at the University of California Davis and California Polytechnic Institute. Clark holds an honorary juris doctor degree from the San Joaquin Valley College of Law which was conferred in 1981.

Business and professional memberships have included the California Student Aid Commission, the boards of the Bank of America's Livestock Symposium (an educational outreach forum) and the Producers Cotton Oil Company, and the Business Advisory Council to Public Television and Channel 18 Fresno. Clark has served as

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president of the Fresno County and City Chamber of Commerce, chairman of the Business Advisory Council to the School of Business and Administrative Sciences, University of California Fresno, and board chairman of the trustees of the San Joaquin College of Law.

Clark and his wife have three sons and six grandchildren.

BIOGRAPHICAL BACKGROUND OF LARRY L. DeVUYST, MEMBER-DESIGNATE, FEDERAL FARM CREDIT BOARD

Larry L. DeVuyst, 3813 East Pierce Road, Ithaca, Michigan 48847. Phone: 517-875-2561.

Age and Education.—Born July 10, 1939 in Ithaca, Michigan.

Graduated from Ithaca High School and attended Michigan State University agricultural short courses.

Occupation.—Farmer. Raises 800 acres of corn and soybeans, and operates a 4,000-head per year farrow-to-finish hog facility.

AFFILIATIONS

Director: Federal Farm Credit Council and Gratiot County Agricultural Council.

Chairman: Task Force on Campaign Finance and Michigan Farmers for Good Government.

Vice President: Michigan Pork Producers.

Member: Alma Production Credit Association; St. Johns Federal Land Bank Association (past Director); Michigan Farm Bureau (past State Director); Michigan State Extension Advisory Council; Michigan Agricultural Cooperative Marketing Association (past Director); Michigan Livestock Exchange, and B & W Cooperative.

Member/Communion Steward: Methodist Church (past Trustee).

Representative: Rotary Exchange Group to Japan.

FORMER AFFILIATION

Director: Farm Credit Board of St. Paul and Michigan Association of Farmer Cooperatives.

Chairman: Livestock Committee, Governor's Conference on Agriculture.

